IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

APPEAL NO.732 OF 2004
IN
CHAMBER SUMMONS NO.1052 OF 2004
IN
SUIT NO.1581 OF 2004

Anwar Qureshi .. Appellant

v/s.

The Municipal Corporatioin for
Greater Bombay & ors. .. Respondents

Mr.A.M.Rajabally for appellant.

Ms.A.S.Uraizee for respondent No.2.

Mr.Vinod Mahadik for respondent No.1.

CORAM : R.M.LODHA AND
J.P.DEVADHAR, JJ.

DATED : 14th December, 2004

P.C.

Heard Mr.A.M.Rajabally, the learned counsel for the appellant.

2. The premises in question comprise of shop No.8, 116/118, Shuklaji Street, Mumbai. The said premises were taken on rent by the appellant from the present respondent Nos.2 and 3. It appears that some unauthorised construction in the said premises was carried out by the appellant. That led to the issuance of notice under section 351 by the Municipal Corporation of Greater Mumbai ('the Corporation') and ultimately, the Corporation

demolished part of the subject premises. The present appellant has filed the suit before this court against the Corporation praying therein that the Corporation be directed to reconstruct the subject premises and replace the same to its original position at their cost. In the plaint, the appellant also claimed damages. The present respondent Nos.2 and 3 who are the landlords/owners of the said premises took out the chamber summons for their impleadment as defendant Nos.2 and 3 in the suit. The said chamber summons has been granted by the learned Chamber Judge. Aggrieved thereby, the present appeal has been preferred.

3. It goes without saying that the present respondent Nos.2 and 3 who are the landlords/owners have a direct and substantial interest in the subject premises. The reconstruction and restoration of the subject premises would undoubtedly and materially affect the right, title and interest in the property of the landlords. In the circumstances, the respondent Nos.2 and 3 are necessarily the proper parties though the relief is sought against the Municipal Corporation of Greater Mumbai. The view we have taken finds support from the judgment of the Supreme court in the case of M/s.Aliji Monoji & Co. v. Lalji Mavji and ors.
AIR 1997 SC 64.

4. No interference is, therefore, called for in the impugned order. Appeal is dismissed in limine.

(R.M.LODHA, J.)

(J.P. DEVADHAR, J.)